

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

**Aircraft Service International Group, Inc., and
Chauffeurs, Teamsters, and Helpers Local Union 492, International Brotherhood of Teamsters, Petitioner.** Case 28–RC–6419

August 31, 2006

DECISION AND ORDER

BY MEMBERS SCHAUMBER, KIRSANOW, AND WALSH

On December 1, 2005, the Petitioner, Chauffeurs, Teamsters, and Helpers Local Union 492, International Brotherhood of Teamsters (Teamsters) filed a petition seeking an election in a unit of all Ramp Servicemen, Fuelers, Ground Service Equipment Mechanics (GSEs) and Aircraft Mechanics (A&Ps) employed by the Employer at its facility at Albuquerque International Airport, Albuquerque, New Mexico.¹ The Employer, Aircraft Service International Group, Inc. (ASIG), provides ground handling and other aircraft and passenger services primarily to commercial aviation customers, fueling services to all carriers flying in and out of the airport, and maintenance to a majority of these carriers. The Employer asserts that it is controlled by the various airlines that operate out of Albuquerque, and that, as these are common carriers subject to the Railway Labor Act, the National Labor Relations Board lacks jurisdiction under Section 2(2) of the National Labor Relations Act. The Petitioner contends that the relationship between the Employer and the carriers is purely one of a service provider and its customers. After a hearing, the Regional Director transferred the proceeding to the Board.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The record indicates that the carriers, with whom the Employer maintains separate contracts, exercise substantial control over the Employer's Albuquerque operations, and provide 100 percent of the Employer's work there. As to employees in the petitioned-for unit: fuelers are responsible for fueling and defueling carrier aircraft; tank farm agents manage the tanks where fuel is stored and transferred to tanker trucks; A&P mechanics are responsible for maintaining and repairing carrier aircraft; and GSE mechanics repair carrier ground service equipment as well as the Employer's equipment. The parties have stipulated that the work done by ASIG employees is the

type of work traditionally performed by employees of air carriers.

The record indicates that the carriers exercise significant control over the Employer's operations at the airport. Such control extends to operating procedures, training and retraining, schedules, direct access to and control over the Employer's personnel, and the ability to effectively recommend promotions as well as discipline and termination of the Employer's personnel.

The Employer's contracts with carriers require the Employer to adhere to carriers' procedural manuals, train its employees in each carrier's procedures, provide carriers access to records pertaining to contract services, including personnel records, and maintain and update carriers' operating manuals. Carriers may audit the Employer's equipment and facilities, training records, and the employees' performance of their work tasks without advance notice. Carriers have access to the Employer's employment, equipment, and fuel records. Carriers have influenced hiring and promotions and have effectively recommended discipline and termination of the Employer's personnel. The Employer will remove an employee from a carrier's account if the carrier makes such a request, which, due to the size of the Employer's operation, is tantamount to a termination request.

Carrier schedules dictate the staffing levels and assigned shifts for ASIG employees, and the Employer has changed work shifts to accommodate changes in carrier needs. Carrier personnel interact directly with and direct the work of the Employer's fuelers and mechanics. Carriers call mechanics directly when their service is needed and instruct them as to specific tasks to be done and the manner in which those tasks are to be performed, without going through the Employer. The Employer's mechanics must make repairs under carrier guidelines as specified in each carrier's maintenance manuals. Carriers also establish training requirements and determine when, how often, and what kind of recurrent training is required.

While carriers are not involved in setting wages and benefits of the Employer's employees, which are subject to the employees' current collective-bargaining agreement, at least one carrier has rewarded employees directly for good performance by hosting a party and giving away airline tickets. Additionally, the Employer has increased staffing levels and changed its physical plant in response to carrier demands.

Section 2(2) of the National Labor Relations Act provides that the term "employer" shall not include "any person subject to the Railway Labor Act." 29 U.S.C. § 152(2). Similarly, Section 2(3) of the Act provides that the term "employee" does not include "any individual employed by an employer subject to the Railway Labor

¹ The employees are currently represented by International Association of Machinists and Aerospace Workers, District Lodge 142, AFL-CIO (IAM).

Act.” 29 U.S.C. § 152(3). The Railway Labor Act, as amended, applies to:

Every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner or rendition of his service.

45 U.S.C. § 151 First and 181.

On March 7, 2006, the Board requested that the National Mediation Board (NMB) study the record in this case and determine the applicability of the Railway Labor Act to the Employer. The NMB subsequently issued an opinion stating its view that the Employer and its employees at Albuquerque are subject to the Railway Labor Act. *Aircraft Services International Group*, 33 NMB 258 (2006).²

² The NMB uses a two-pronged jurisdictional analysis: (1) whether the work is traditionally performed by employees of air and rail carriers; and (2) whether a common carrier exercises direct or indirect ownership or control. Both prongs of the test must be met. The parties stipulated to the first prong, and the NMB concluded that the requirements of the second prong were met in this case. We have previously

Having considered the facts of this case in light of the opinion issued by the NMB, we find that the Employer is engaged in interstate air common carriage so as to bring it within the jurisdiction of the NMB, pursuant to Section 201 of Title II of the Railway Labor Act. Accordingly, we shall dismiss the petition.

ORDER

IT IS ORDERED that the petition in Case 28–RC–6419 is dismissed.

Dated, Washington, D.C. August 31, 2006

Peter C. Schaumber,	Member
---------------------	--------

Peter N. Kirsanow	Member
-------------------	--------

Dennis P. Walsh,	Member
------------------	--------

(SEAL)

NATIONAL LABOR RELATIONS BOARD

found ASIG’s operations at Detroit Metropolitan Airport to be subject to the RLA on similar facts after referral to the NMB for jurisdictional determination. See *Aircraft Service International Group*, 342 NLRB 977 (2004).